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MAILED

AUG 2 3 2005

Technology Center 2100

In re Application of: Redler)
Application No. 09/786,364) DECISION ON PETITION FOR
Attorney Docket No. 1336) SUPERVISORY REVIEW
Filed: 03/15/2001) UNDER *37 CFR §1.181*
For: SECURE DATA ENTRY)
PERIPHERAL DEVICE)
)

This is a decision on the petition under 37 CFR § 1.181, filed July 3, 2005, (copy filed July 5, 2005) requesting the Commissioner to invoke his supervisory authority and withdraw the finality of the final Office action mailed April 5, 2005.

The petition is **DISMISSED**.

RECENT PROSECUTION HISTORY

(1)   On September 21, 2004, a non-final Office action, treating pending claims 1-6, 12-15 and 22, was mailed.

(2)   On December 21, 2004, a response to the non-final Office action, in which independent claims 1, 22 and dependent claim 15, were amended. Note claims 2-6 were cancelled while claims 12-14 were not amended with the response of December 21, 2004.

(3)   On **April 5, 2005**, a final Office action, treating claims 1, 12-15 and 22 on art of record, was mailed.

(4)   On June 1, 2005, in an interview summary sheet (PTOL-413), copy provided to applicant, the Examiner indicated that proposed amendments after final rejection discussed, although not readily taught from the art applied in the final office action, if added to the claims would represent new considerations resulting in further searching and the mailing of an Advisory Action.

(5)   On **July 3, 2005**, (copy filed July 5, 2005) the instant petition was filed.

(6)   Also on July 5, 2005, an amendment (to independent claims 1 and 22) and response after final was filed.

(7)   On August 10, 2005, an advisory action was mailed, indicating that the amendment(s) filed on July 5, 2005 would not be entered as they raised new issues that would require further consideration and/or search. A detailed explanation was included on page 2 of such action.

RELIEF REQUESTED

The instant petition filed under 37 CFR 1.181 requests the following relief: withdrawal of the finality of the April 5, 2005 office action as Applicant believes the final rejection was mailed: 1) before the development of an issue and because 2) the final rejection contains a technical inaccuracy.
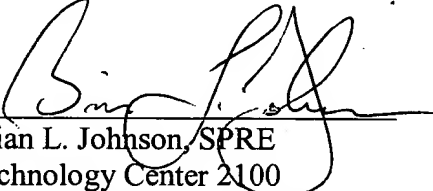
ANALYSIS

A petition under 37 CFR §1.181 must include: (1) a statement of facts involved and (2) the point or points to be reviewed and the action requested. Note, the mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. In addition § 1.181(f) sets forth: any petition under this part not filed *within two months* of the mailing date of the action or notice from which relief is requested may be dismissed as untimely. Further, when a petition is taken from an action or requirement of an examiner in the ex parte prosecution of an application, ... it may be required that there have been *a proper request for reconsideration (37 CFR §1.111) and a repeated action by the examiner*.

The petition initially filed on July 3, 2005 includes elements (1) and (2) above. However, the petition was not filed within two months of the action (final Office action, April 5, 2005) from which relief is requested. In addition, there does not appear to be a proper request for reconsideration (of the propriety of the final rejection) under 37 CFR§1.111 in the file.

CONCLUSION

For the above stated reasons, the petition to withdraw the finality of the final Office action of April 5, 2005 is **DISMISSED**.

Any inquiries related to this decision may be directed to Specials Program Examiner Brian Johnson at (571) 272-3595.

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